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BY THE COMPTROLLER GENERAL

Report To The Congress

OF THE UNITED STATES

COMPLETED
ORIGINAL

Prospects Dim For Effectively Enforcing Immigration Laws

The inability of the Immigration and Naturalization Service to effectively enforce immigration laws is underscored by the estimated 5 million illegal aliens living in the United States. The actions necessary to enforce immigration laws are known--sealing the borders, adopting employer sanctions, and issuing worker identification cards. These steps are, at best, highly controversial.

A Select Commission on Immigration and Refugee Policy has been established to evaluate the immigration situation and to recommend improvements. Its recommendations and any resulting congressional action will not be effective unless the Government improves its ability to enforce immigration laws. Improvement is uncertain, however, because of many obstacles.

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NOVEMBER 5, 1980

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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To the President of the Senate and the
Speaker of the House of Representatives

This report discusses the many obstacles that prevent implementation of actions which would reduce the influx of illegal aliens. We made this review to gauge, under current procedures and laws, the Immigration and Naturalization Service's prospects for controlling the illegal alien population in the United States.

We are sending copies of this report to the Director, Office of Management and Budget, and to the Attorney General.

Comptroller General
of the United States

B

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

PROSPECTS DIM FOR EFFECTIVELY ENFORCING IMMIGRATION LAWS

D I G E S T

The Immigration and Naturalization Service has not been able to adequately enforce immigration laws and the prospects for its doing so are dim. It has neither the legal means nor sufficient resources to stem the growing number of illegal aliens entering the United States.

Most aliens enter the country seeking employment at wages above those available in their own country. But U.S. immigration laws limit the number of aliens who can enter legally--600,000 immigrants were admitted legally in fiscal year 1978. The number of aliens entering illegally is unknown but annually about 1 million are apprehended and removed from the United States, primarily at the borders.

Law enforcement measures necessary to control illegal immigration are known, but are not likely to be taken, at least not for some time. The two major steps--assigning large numbers of personnel to seal the border and, as a condition of employment, requiring people in the United States to prove their right to be here and to be employed--are drastic actions. The costs in terms of strained international relations, restrictions on freedom of the citizenry, and increased resources for law enforcement would be formidable.

A Select Commission on Immigration and Refugee policy has been established to evaluate immigration laws, policies, and procedures and to make such administrative and legislative recommendations as are appropriate. The Commission's recommendations and any resulting legislative actions

will not be fully achieved unless the Government improves its ability to enforce the immigration laws.

IMMIGRATION HAS NOT BEEN CONTROLLED

The Service's inability to enforce immigration laws is clearly indicated by the fact that the country has a large illegal alien population. No one knows exactly how many, but in January 1980, some staff at the Census Bureau estimated the number to be about 5 million.

About 40 percent of the illegal aliens are persons who entered the country legally and then violated a condition of their entry. About 60 percent are persons who entered illegally, either through the use of forged documents or by crossing U.S. land and sea borders without inspection. (See pp. 1 and 2.)

Once safely inside the United States, an illegal alien has little chance of being located and deported. The Service simply does not know the number of illegal aliens or who and where they are. The system for identifying aliens entering legally then violating a condition of entry does not produce timely, reliable data. Aliens who enter the country surreptitiously are not part of any reporting system and the cost and legal barriers to identifying and apprehending them are formidable.

Most of the actions the Service is taking to cope with the problem are directed at developing information systems to determine whether legal nonimmigrants have violated a condition of entry. However, it must overcome problems of reliability and timeliness in these systems. Even if perfected, the systems will only help to identify some illegal aliens. The Service will still be unable to identify, locate, and apprehend aliens who enter illegally. (See pp. 19 to 24.)

PROBLEMS WITH TIGHTER BORDER CONTROL

The Service has long maintained that, although the borders realistically cannot be made impenetrable to illegal entry, greater enforcement efforts are clearly possible. In keeping with this theme, it developed a prevention plan in 1978 for reducing the flow of illegal aliens. The plan called for an increase of at least 2,000 personnel, including 1,000 for border enforcement operations.

These personnel and other costs for fencing, sensors, helicopters, etc. would have required an increase of $125 million in the Service's $250 million annual operating costs. Most of this would have gone to secure about 10 percent of the 2,000 mile Mexican border, which is but a quarter of the Nation's 8,000 mile border. (See pp. 12 and 13.)

Over 92 percent of all deportable aliens apprehended in 1978 came from Mexico. A 1978 report by the House Select Committee on Population concluded that, of the illegal aliens in the country, about 60 percent were Mexicans. Hence, stopping illegal entry may require more than sealing the Mexican border. (See pp. 2 and 4.)

The amount of resources devoted to border operations has increased, but not substantially. In fiscal year 1976 there were about 2,400 border patrol personnel, and border enforcement cost about $62 million. For 1981 there are 2,500 personnel and costs of $72 million. (See p. 13.)

The increases are obviously far below those called for in the 1978 prevention plan. The Attorney General has stated that Service resources devoted to preventing illegal entry will not change significantly for some time. (See p. 5.)

PROBLEMS IN REMOVING INCENTIVE FOR ILLEGAL IMMIGRATION

The primary incentive for illegal immigration is employment. However, no Federal sanctions exist to use against employers who willingly hire illegal aliens. Since 1970, eight bills have been introduced in the Congress to make it unlawful to hire illegal aliens. Generally, the bills call for sanctions only against employers who "knowingly" hire an alien not entitled to work and who engage in a "pattern or practice" of unlawful hirings. None of the bills have become law.

Eleven States have enacted laws prohibiting the employment of illegal aliens. In only one case was a judgment rendered under one of these statutes; the defendant was fined $250.

The major concerns about employer sanctions are that employers, without some way to determine who has the right to work, will (1) engage in discriminatory hiring practices by refusing to hire foreign-looking persons and (2) not incur sanctions because of the difficulty of proving that illegal aliens were knowingly hired and that there was a practice or pattern of these hirings. (See pp. 8 and 9.)

Identifying persons entitled to work in this country through some sort of identification card is an idea which has not been accepted in the past. In the mid-1970s, a Federal Advisory Committee on False Identification and the House Judiciary Committee rejected any step toward a national identification or work permit card.

Today there is still opposition to the identification card concept, but the general public seems more willing to accept such a card to control the influx of illegal aliens. A 1977 Roper Poll response showed that 51 percent of

those polled were in favor of an identification card. An additional 29 percent, although not in favor of the identification card, were in favor of a right-to-work card.

The Select Commission on Immigration and Refugee Policy is considering employer sanctions and the means to enforce them Whatever the outcome, it will be costly and may take years to implement a reasonably secure card system that will significantly hamper illegal aliens from obtaining jobs. (See pp. 5 and 11.)

AGENCY COMMENTS

The Department of Justice agrees that the Immigration and Naturalization Service is presently unable to effectively reduce the number of undocumented aliens in the United States and that without the implementation of measures such as those discussed in this report, little progress in solving the immigration problem is likely. (See app. I.)

MATTER FOR CONSIDERATION BY THE CONGRESS

The Congress will be asked, on the basis of the Select Commission's work, to consider recommendations to change immigration laws, policies, and procedures. Expectations are that a rational and humane policy will be developed that will still limit the number of immigrants to be accepted. To the extent that it contains limitations, the policy's objectives will not be fully achieved unless the United States improves its ability to enforce the immigration laws.

Tear Sheet

APPENDIX

I Letter dated September 26, 1980, from the Assistant Attorney General for Administration, Department of Justice 27

ABBREVIATIONS

GAO	General Accounting Office
INS	Immigration and Naturalization Service

CHAPTER 1

IMMIGRATION LAWS ARE NOT EFFECTIVELY ENFORCED

Federal efforts to prevent illegal immigration into the United States have not been successful. Although no one knows how many illegal aliens are in the United States, some Census Bureau staff, in January 1980, estimated that the number may be about 5 million. Efforts to deal with the problem will remain static until the Select Commission on Immigration and Refugee Policy issues its report in March 1981.

The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) prescribes the conditions under which immigrant and nonimmigrant aliens can enter the United States and remain here. The act authorizes the Attorney General and the Secretary of State to administer and enforce the immigration laws. These laws are primarily carried out by the Immigration and Naturalization Service (INS) and the Visa Office of the Bureau of Security and Consular Affairs, Department of State, with assistance from the Customs Service, Department of the Treasury.

INS is required by law to determine the nationality of each person seeking admission and, if the person is an alien, to determine his or her eligibility for admission; prevent illegal entry into the United States; and apprehend and remove those who entered the country surreptitiously or who violated the terms of lawful admission. The Visa Office, through the overseas U.S. consulate offices, screens foreigners' qualifications for entering the United States. The Customs Service is responsible for preventing the improper entry of goods and assessing duty and taxes on imports. Because of its presence at ports-of-entry, Customs assists INS in performing its inspection functions.

THREE BROAD GROUPS CONSTITUTE THE ALIEN POPULATION

Aliens can be classified into three broad groups: immigrants, those who seek permanent residence; nonimmigrants, those who enter for temporary periods for such purposes as business, pleasure, schooling, or work; and illegal aliens. The latter are those entering surreptitiously; those using illicit documents or making false claims to citizenship; and those violating a condition of legal entry, such as exceeding the authorized period of stay or taking unauthorized employment.

The law sets a yearly limitation of 290,000 immigrants. Under a preference system, family reunification and needed employable skills are the foremost considerations for admission. No more than 20,000 immigrants from any single foreign state may be admitted in any 1 year. The spouse and unmarried children (under 21) of citizens and parents of citizens (over 21) qualify for admission without regard to any numerical limitation.

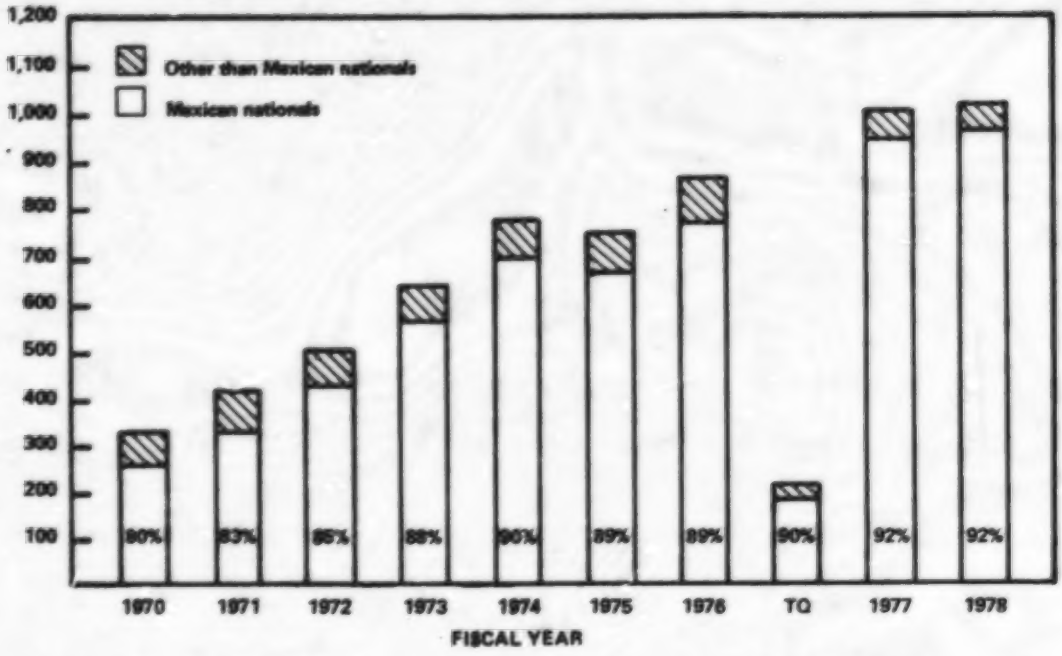
Because certain immigrants are not counted as part of the quotas, actual immigration exceeds the allowable 290,000 limitation. In fiscal year 1978 about 600,000 aliens entered the country as immigrants, and about 9.3 million entered as nonimmigrants. Of the latter, about 6.6 million were visitors for pleasure; 1.05 million were returning resident aliens; 800,000 were visitors for business purposes; 187,000 were students; 43,000 were temporary workers and trainees, and 617,000 entered for various other purposes. The exact number of illegal aliens in the United States is unknown; however, about 1 million are apprehended annually.

Estimates of the number of illegal aliens in the country vary widely. In our report "Illegal Aliens: Estimating Their Impact On the United States" (PAD-80-22, March 14, 1980), we stated that estimates of the population varied between 3 and 6 million. INS, commenting on the report, stated that an estimate of 4 million is more likely.

A Census Bureau staff report estimates that at the end of the 1970s there were about 5 million illegal aliens in the United States. A 1978 report by the House Select Committee on Population estimated that 60 percent of the illegal alien population had entered illegally. The Committee also estimated that 60 percent of the illegal alien population were Mexicans. In September 1980, INS had in process a study to estimate the number of Mexicans in the United States illegally.

The number of deportable aliens located is growing. In 1978 the number was over 1 million. Some border patrol officials estimate that for every person apprehended while illegally entering the country, at least two others get through. However, many illegal entries are made by the same person. Studies show that Mexican illegal aliens return home about 4 times during a 5-year period. The growing number of deportable aliens located by INS is shown in the following chart.

DEPORTABLE ALIENS LOCATED
Fiscal Years 1970-1978 (000 omitted)



GAO Note: Transitional quarter (TQ) occurred in 1976 when the Federal Government changed its fiscal year period.

Approximately 92 percent of all deportable aliens located in 1978 entered the United States without inspection at other than ports-of-entry, and about 98 percent of these were Mexican nationals. The majority of the remaining 8 percent were visitors or students who entered legally then subsequently violated the conditions of their stay (5.5 percent). The number of deportable aliens by category of entry and country of origin is shown in the charts below.

Deportable Aliens Located
Fiscal Year 1978

How they entered	Number of aliens	Percent of total
Entered without inspection	971,456	91.8
Visitor	52,281	4.9
Crewman	13,788	1.3
Student	6,813	.6
Immigrant	2,173	.2
Stowaway	528	.1
Agricultural worker	504	.1
Other	10,434	1.0
Total	1,057,977	100.0

Country of origin	Number of aliens	Percent of total
Mexico	976,667	92.3
El Salvador	8,968	.9
Canada	8,373	.8
Guatemala	4,089	.4
China	3,522	.3
Greece	3,295	.3
Columbia	3,279	.3
Philippines	3,194	.3
Other nationalities	46,590	4.4
Total	1,057,977	100.0

INS' RESOURCES TO DEAL WITH ILLEGAL ALIENS WILL NOT BE INCREASED

The INS resources devoted to preventing illegal entry and reducing the number of illegal aliens will not change significantly for quite some time. The Attorney General, in testimony before congressional authorization hearings, said that increases in enforcement personnel should be postponed until the Select Commission on Immigration and Refugee Policy issues its report. He expects the report to assist in developing an agreement on statutory changes to remove the incentive (employment) for illegal immigration, which may obviate the need for large increases in enforcement personnel. The report is due in March 1981. Depending upon the kinds of statutory changes proposed, enacting legislation may be a long term process.

Overall, INS' budget estimate for fiscal year 1981 includes 10,716 permanent positions and $347.7 million in resources. The primary programs for carrying out INS enforcement responsibilities are the inspection program, the border patrol program, and the investigations program. The inspection program's purpose is to ensure that all persons seeking admission to the United States establish their right to enter. The estimated 1981 budget for this program includes 1,559 positions and $50.3 million.

The border patrol program's purpose is to prevent the illegal entry of aliens and apprehend illegal entrants, smugglers, and smuggled aliens within 100 miles of the border. This program's budget for 1981 includes 2,534 positions and $72.1 million. The investigation program's purpose is to locate and apprehend illegal aliens in the interior of the country. This program's budget includes 798 positions and $26.4 million.

THE SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY: A MAJOR EFFORT TO IMPROVE U.S. IMMIGRATION LAWS

The Select Commission on Immigration and Refugee Policy, created by Public Law 95-412, 92 Stat. 907 (8 U.S.C. 1151 note) constitutes a major effort by a joint Presidential/ congressional commission to examine and overhaul the immigration laws of the United States.

The duty of the Commission is to study and evaluate existing laws, policies, and procedures governing the admission of immigrants and refugees to the United States and to make such administrative and legislative recommendations to

the President and to the Congress as are appropriate. One of the Commission's major concerns is the illegal alien issue.

In particular, the Commission shall conduct a study and analysis of, among other matters, the effect of the provisions of the Immigration and Nationality Act (and administrative interpretations thereof) on

(a) social, economic, and political conditions in the United States;

(b) demographic trends;

(c) present and projected unemployment in the United States; and

(d) the conduct of foreign policy.

The Commission will issue major recommendations in December 1980 and will present a final report March 1, 1981.

The Commissioners include four Cabinet members, eight Members of Congress (four members selected from each Judiciary Committee) and four members appointed by the President, including the Chairman.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of this review were to assess the ability of INS to control the influx of illegal aliens under existing laws, policies, and procedures and to identify impediments to effective immigration law enforcement.

We reviewed INS records and statistical data and interviewed INS officials at its headquarters, regional, and district offices. Discussions were also held with local law enforcement officials in California and Arizona and with staff of the Select Commission on Immigration and Refugee Policy.

In addition, the legislative history of unsuccessful Federal legislation to impose sanctions on employers of illegal aliens and various government studies and reports, including prior GAO reports, were used in formulating our conclusions.

CHAPTER 2

MAJOR ACTIONS TO CONTROL ILLEGAL ALIEN IMMIGRATION ARE UNLIKELY

What has to be done to control illegal alien immigration from a law enforcement perspective is known, but the steps to do so are not likely to be taken, or at least not for quite some time. The two major steps--sealing the border and/or requiring people, as a condition of employment, to prove their right to be in the United States and to be employed--are drastic actions. The costs of these actions in terms of unfavorable international relations, restrictions on freedom of the citizenry, and increased resources for law enforcement are formidable.

As recommendations concerning our immigration policy are made by the Select Commission on Immigration and Refugee Policy and legislation considered, there should be no illusions about the cost of and the prospects for controlling the illegal alien population. But, a new immigration policy will not be fully achieved unless the United States improves enforcement of its immigration laws.

REMOVING ALIENS' INCENTIVE FOR ILLEGAL ENTRY IS DIFFICULT

The incentive for illegal immigration into the United States--employment at wages above that available in the alien's country--is difficult to remove. Conditions in the country from which most illegal aliens come are not likely to change. And, over the past 10 years, numerous Federal legislative proposals to discourage employment of illegal aliens in this country have been introduced, but none have been made law.

Legislation has failed primarily because there was no reasonable way to enforce it. Employers simply had no ready means of determining who had the right to work. Hence, employers could hardly be held accountable for hiring those who did not have that right. The means by which employers could differentiate between those who could and could not be hired is generally held to be some sort of identification card. But creating a valid, counterfeit proof card and having it accepted by the public is, at best, a very difficult and costly task.

Finally, a law that is not enforced is not effective. To enforce an employer sanction law would require additional Federal investigative and prosecution resources.

Discouraging employment of illegal aliens is difficult.

There are no Federal legal sanctions against employers who hire illegal aliens. And, those State sanctions that do exist have not been enforced. Since 1970, eight bills making it unlawful to hire illegal aliens have been introduced. Penalties to be levied for unlawful hiring were generally civil penalties, with a $1,000 fine per illegal alien employed. Generally the bills called for sanctions only in those cases where the employer "knowingly" hired an alien who was not entitled to work and engaged in a "pattern or practice" of unlawful hirings. None of the bills have become law.

Unlike the Federal Government, 11 States have enacted laws prohibiting the employment of illegal aliens. Sanctions for employers who do hire illegal aliens range up to a $1,000 fine and/or a 1-year confinement. We know of only one case in which a judgment was rendered under one of these statutes; the defendant was fined $250.

There are various reasons why legislation has not been enacted at the Federal level and by more States and why existing State legislation has not been enforced.

--Employers contend that determining whether a person is an illegal alien is a law enforcement, not an employment, function.

--Employers would have to incur a cost of unknown magnitude to determine a person's right to work.

--Illegal aliens may not be considered economically troublesome in some locations. For example, only California, of the four States bordering Mexico, has an employer sanction law.

--State statutes are relatively new--8 of the 11 were enacted since 1975.

But the major concerns about employer sanctions at both the Federal and State level are that employers, without some way to determine who has the right to work, will (1) engage in discriminatory hiring practices by refusing to hire foreign-looking persons and (2) not incur sanctions because the prosecution will have difficulty proving that illegal

aliens were knowingly hired and that there was a practice or pattern of these hirings.

State laws are virtually unenforced because of the problem of determining when employers "knowingly" employ an alien not entitled to lawful residence. Obviously, some means to identify those entitled to work is clearly needed to enforce employer sanctions legislation.

Identifying those entitled to work:
a costly and controversial solution

Identifying those entitled to work in this country through some sort of identification card is an idea which has not been accepted. Although acceptance may be growing, many still object to the concept. In addition, card development and implementation is a difficult, costly, time-consuming task.

In the past, many Americans found the identification card concept objectionable, because it was a step toward authoritarian government. For that reason, for example, in the mid-1970s both a Federal Advisory Committee on False Identification and the House Judiciary Committee rejected any steps in the direction of a national identification or work permit card.

Today there is still opposition to the identification card concept, particularly from Hispanic/American organizations. These groups state that the card would be another tool for employers to use to discriminate against persons of Latin descent.

On the other hand, the general public seems more willing to accept an identification card to control the influx of illegal aliens. A 1977 Gallup Poll response to the question, "Do you think it should or should not be against the law to employ a person who has come into the United States without proper papers?" showed 72 percent saying it should be, 23 percent saying it should not be, and 5 percent having no opinion. A 1977 Roper Poll showed 51 percent responding in favor of an identification card and an additional 29 percent, although not in favor or the identification card, in favor of a right-to-work card, as follows.

> "At the present time there is no foolproof way of determining if a person is legally or illegally in this country. Illegal aliens can get forged driver's licenses, Social Security cards, etc. It has been

proposed that a national identity card be issued to every U.S. citizen at birth or on naturalization, as they do in Europe. You would have to show this card to an employer to get a job, or to a policeman on request, etc. Some people are in favor of a national identity card as a means of cutting down on illegal immigration. Others are opposed to it as being a violation of people's privacy and civil rights. How do you feel--would you like to see national identity cards issued to all citizens or not?"

Response	Percent (note a)
Yes	51
No	33
Have mixed feelings	12
Don't know	5

"(If 'do not favor national identity card' or 'undecided about it') Another proposal is that all citizens be issued a forge-proof Social Security card which you would only have to show a prospective employer at the time you were being hired, but wouldn't have to carry with you at all times, and wouldn't have to show to police or anyone else on demand. Would you like to see forge-proof Social Security cards issued to all people who work or are looking for jobs, or would you be against this?"

Response	Percent (note a)
For	29
Against	9
Have mixed feelings	8
Don't know	4
Not asked--favor national identity card	51

a/Percentages add to 101 rather than 100 due to each percentage being rounded to the nearest whole number.

Hence, 80 percent of those responding were for some sort of work identification card.

Assuming the Congress will accept the identification card concept, there are still the problems of designing and implementing a card system. There are many questions and few answers. For example:

--Should the card be an upgraded Social Security card or a new document?

--Should the card be for the entire population, only the working population, or some segment of the working population such as those between 18 and 35 years of age? Most of those entering the country illegally are in that age bracket.

--How secure should the card be? The more secure (counterfeit-proof) the card, the more costly the card system.

--Although a reasonably secure card can be made, how can the right to possess a card be verified? A simple mailed request to most town clerks or city registrars will obtain a copy of someone else's legitimate birth certificate; other false documents are as easily obtained. Hence, an apparently valid card may be obtained by a person not entitled to one.

--What is the enforcement cost at both the employer and Federal level?

Answers to these questions are being considered by the Select Commission on Immigration and Refugee Policy.

Whatever the answers, implementing a reasonably secure card system to the extent necessary to significantly hamper illegal aliens from obtaining jobs will cost billions of dollars and take years to become effective. For example, a May 1978 study for the Department of Labor, "Keeping Undocumented Workers Out of the Workforce: Costs of Alternative Work Permit Systems," described a prototype worker permit system to support an employer sanctions program. On the basis of a nationwide computerized data base, employers would be required to check on the legal status of new workers with a phone call to the data bank, much like

the call a traveler makes to an airline seeking a flight reservation. A recommended, but optional, feature would be a work permit card carrying the worker's photograph. This system was estimated to cost a billion dollars in the first 5 years of operation and would include a modestly secure card. However, all age groups would not be covered during this period. Furthermore, cost estimates were not included for investigative staffs of either the Employment Standards Administration, Department of Labor or INS.

The Justice Department agrees that implementing a work authorization card program would take years to implement but notes that the cost may be offset by the eventual reduction in the balance of payments. If the program can preclude aliens from obtaining jobs, it should, to some undeterminable extent, preclude monies from leaving the United States.

However, as with many new programs, cost and time estimates may be optimistic. To illustrate, INS's counterfeit-proof alien identification card (a part of INS' Alien Documentation, Identification and Telecommunications System, or ADIT) is the latest version of the I-151, the document which permanent resident aliens must carry. The ADIT system was originally estimated to cost about $13 million, and in 1977 INS determined that a 7-year replacement schedule was realistic. The system is still under development, and the estimated cost is now about $67 million. However, the total cost may exceed this estimate. In addition, INS may not meet its projected 7-year schedule, unless the production rate increases substantially.

The Justice Department, commenting on our report, stated that the 7-year replacement schedule does remain somewhat of an open question but is optimistic that the schedule will be met.

INCREASED BORDER CONTROLS WOULD BE COSTLY AND COULD PROMOTE VIOLENCE

Closing the Nation's borders, even if it were possible, would be a costly, questionable tactic. First, INS estimated an increase in costs of $125 million for sealing the borders. However, most of that amount was for sealing only a small fraction of the Nation's 8,000 miles of border--less than

10 percent of the 2,000-mile Mexican/U.S. border. Second, imposing tighter border controls without eliminating the incentive for illegal entry--jobs--may promote confrontations. As INS has increased its patrol of the Mexican border, violence between border patrol officers and those seeking illegal entry has also increased.

Cost of closing the border is prohibitive

INS, through the years, has maintained that although the borders cannot realistically be made impenetrable to illegal entry, greater enforcement efforts are clearly possible. In keeping with this theme, an INS May 1978 prevention plan for reducing the flow of illegal aliens called for an increase of a minimum of 2,000 personnel for border enforcement operations. Those personnel and other costs (fencing, sensors, helicopters, etc.) would have required an increase of $125 million over a total annual operating cost of about $250 million. Most of this cost was for a small part of the Mexican/U.S. border.

Most illegal aliens (about 60 percent) are apprehended in a 30-mile section of the border south of San Diego, called the Chula Vista Border Patrol Sector and in a 20-mile section at El Paso, Texas. Other Border Patrol Sectors for which additional resources and personnel were included in the 1978 prevention plan are located at El Centro, California, and Yuma and Tucson, Arizona.

The amount of INS resources devoted to border operations has increased, but not substantially. In fiscal year 1976, INS employed about 2,400 border patrol personnel at a cost of about $62 million. As noted in chapter 1, the INS budget for 1981 calls for 2,500 border patrol positions and $72 million, still far from the numbers called for in INS' 1978 prevention plan.

Sealing the border has come to mean sealing the Mexican border. However, that emphasis is uncertain. As noted in chapter 1, no one knows for sure how many illegal aliens enter the country each year or where or how they enter. But

of the approximate 1 million deportable aliens located by INS in 1978, about 92 percent entered the country without inspection. Of that number, about 98 percent came from Mexico. Overall, over 92 percent of all deportable aliens came from Mexico. On the other hand, a 1978 House Select Committee on Population report estimated that, of the illegal aliens in the country, about 60 percent were Mexicans. Hence, stopping illegal entry may require more than sealing the Mexican border.

Border violence has increased

As INS has increased its efforts to tighten Border Patrol operations, violence between patrol officers and those seeking illegal entry has also increased. Whether or not the increase in violence is the result of frustration on the part of those being denied access to the U.S. job market is uncertain. The increase may be the result of a younger, more aggressive group of aliens. For whatever reason violence has increased, it has added to the INS patrol cost.

Border Patrol personnel told us that in the "old days" one patrol officer could apprehend and control numerous illegal aliens without incident. That is no longer the case. For example:

--In 1979, about half the 250 patrol officers assigned to the 30-mile section immediately south of San Diego were injured apprehending illegal aliens.

--An increasing number of aliens are carrying weapons, such as knives, rifles, shotguns, and iron pipes.

--Rock throwing incidents occur nightly; in November 1979, rocks thrown by aliens caused the crash of an INS helicopter. The crew had to be rescued from the rock throwing mob by patrol officers who were helped by the San Diego police department.

Now, for safety reasons, two patrol officers perform the functions previously handled by one and, where previously standard vehicles served patrol purposes, vehicles are now specially equipped, so-called "war wagons."

Tighter border patrol efforts may also result in more aliens using the services of smugglers to gain entry into the country. Smugglers, being more adept than individuals at illegal entry, compound INS' efforts to curb the illegal alien influx. In April 1980, testifying before the Senate Judiciary Committee, the INS Acting Commissioner gave an example of the magnitude of the smuggling operation.

According to the Commissioner, an INS checkpoint on the main highway leading from the Mexican border to Los Angeles suspended operation for about an hour and a half on a Sunday evening in February 1980. That was considered sufficient time for word to reach the border that the checkpoint was not in operation. Operations were quickly reinstated; each car was closely examined. In a short time

--518 smuggled aliens were found,

--35 smugglers were arrested, and

--22 cars were found abandoned with many aliens concealed within.

INS has stepped up its antismuggling program. For example, in 1976, the program employed about 50 to 60 personnel who apprehended 9,600 smugglers. In fiscal year 1979, however, the program had 312 personnel who apprehended 18,500 smugglers. Program costs and personnel for 1980 are estimated at $10.2 million and 300 respectively. The program, however, is unlikely to significantly reduce the number of illegal entries. Of the 18,500 smugglers apprehended in 1979, only 5,800 were convicted. Penalties for those convicted were mostly minor. Hence, many are apt to remain in the smuggling business.

INCREASED BORDER CONTROL OR REDUCING THE WORK INCENTIVE COULD CAUSE UNFAVORABLE INTERNATIONAL REACTION

Removing the incentive for or greatly increasing the difficulty of illegal entry into the United States would affect the aliens' home countries. Many countries rely upon emigration of a temporary or a permanent nature as an escape valve to relieve intense economic and social pressures resulting from unemployment or underemployment. The United States has for many years been, and continues to be, one of the World's major countries of immigration, because it is

considered the ultimate desired destination by those forced to resettle elsewhere.

Because most illegal aliens come from Mexico, that country would be most affected should the United States cease to act as an escape valve. Some of the reasons Mexico needs such a valve include the following.

--About 62 percent of Mexico's labor force is unemployed or underemployed.

--Mexico's annual population growth rate is currently 3.4 percent, and the population could reach an estimated 95.1 million by 1990, almost double the 1970 population of 48.4 million.

--An estimated 700,000 new jobseekers flood the job market annually, but no more than 300,000 new low paying jobs are created in the same period.

--A high proportion of the population is under 15 years of age (estimated to be 46 percent in 1970); hence, population pressures will most likely continue.

Stopping the annual influx of illegal aliens from Mexico and returning those already in the United States would exacerbate Mexico's internal unemployment problems. Intensifying unemployment problems may result in political unrest. What the result of that unrest would mean for the United States is uncertain.

LITTLE DATA EXISTS TO JUSTIFY DRASTIC ILLEGAL ALIEN ACTION

A paucity of data makes a thorough analysis of the impact of illegal aliens on the United States impossible. In our report "Illegal Aliens: Estimating Their Impact on the United States" (PAD-80-22, March 14, 1980), we concluded that, although many methods exist for evaluation, there is little organized data about illegal aliens. Most information has been collected piecemeal, and little has been done to integrate the data within a coherent policy analytic framework. Conclusions, therefore, are tentative. Tentative conclusions are not conducive to supporting the kinds of drastic actions necessary to control the illegal alien population.

The lack of data is not a new problem. A December 1976 report by the Domestic Council Committee on Illegal Aliens had this to say about information:

> "Underlying much of the current discussion is the assumption that if we only knew the true dimensions of the illegal alien issue and its impact, we could target resources to the level of compliance that we wish to achieve. This notion may well be wishful thinking. We may never know the dimensions of this issue.
>
> "Research into the characteristics and impacts of a clandestine population presents extraordinary difficulties. Some researchers believe it is similar to subjects like pornography or victimization and is therefore unresearchable. In addition, extant data systems on immigration and immigration-related matters are very primitive. Hard data on illegal aliens is virtually nonexistent."

The two reports present different shades of opinion on the illegal alien impact in the labor market. For example:

--In its December 1976 report, the Committee, recognizing the shortage of data, drew some tentative conclusions. One of these conclusions was that illegal aliens compete effectively with native workers, although the degree to which they actually displace native workers is unclear.

--In our March 1980 report, we also qualified conclusions about the impact of illegal aliens because of the limited amount of data on the subject. On the basis of available data, we concluded that variations between regions appear substantial. Illegal aliens in the North and East were estimated to have earned the highest average income of the total illegal alien group, contributed more in revenues than received in benefits, and possibly created job displacements; the illegal aliens in the South and West earned lower wages, received more in benefits than they paid in taxes, and possibly caused less displacement.

The need for reliable data on the entire range of illegal alien problems has been recognized for years but not fulfilled. Commenting on our March 1980 report, the Department of Justice recognized that conclusions about illegal aliens were derived from soft data and stated that studies were in progress to produce reliable data. Without reasonably reliable data showing that the problem of illegal aliens is equal to the costs of the drastic actions necessary to enforce immigration laws, the prospects of taking those actions are dim.

AGENCY COMMENTS

The Department of Justice agrees that without the implementation of measures such as those discussed in this report, little progress is likely in solving the immigration problem. The Department also notes that, although the work authorization card would operate as a deterrent to illegal aliens entering the country, it would not significantly increase the number of aliens apprehended or removed. But, it is equally arguable that illegal aliens who could not get a work authorization card would probably leave the country.

MATTER FOR CONSIDERATION BY THE CONGRESS

The Congress will be asked, on the basis of the Select Commission's work, to consider recommendations and legislation to change immigration laws, policies, and procedures. Expectations are that a rational and humane policy will be developed that will still limit the number of immigrants to be accepted. To the extent that it contains limitations, the policy's objectives will not be fully achieved unless the United States improves its ability to enforce the immigration laws.

CHAPTER 3

INS CANNOT COPE WITH THE ILLEGAL ALIEN POPULATION

An illegal alien once safely into the United States has little chance of being located and deported. INS simply does not know the number of illegal aliens or who and where they are. First, the system for identifying those aliens who enter legally and subsequently become illegal by violating a condition of entry does not produce timely, reliable data. Second, most (60 percent) of the illegal alien population entered the country surreptitiously; thus, they are not part of any reporting system. Third, cost and legal barriers to locating and apprehending illegal aliens are formidable.

INS is taking some actions to cope with the illegal alien problem. Most of the steps are directed at developing its nonimmigrant document control system and its foreign student program to determine whether legal nonimmigrants have violated a condition of entry. Both have to overcome problems of reliability and timeliness. Even if perfected, the systems will help only to identify some of the illegal aliens. Identifying the others and locating and apprehending them will still be beyond INS' capabilities.

ALIEN IDENTIFICATION SYSTEMS ARE NOT WORKING

The principal INS system for identifying the status of nonimmigrants has data input and data processing problems preventing it from being a substantial law enforcement aid. Also, INS' problems accounting for foreign students have been recognized for many years, but corrective action has been limited.

How the system should work

The nonimmigrant document control system consists of records on nonimmigrants who enter the United States on a temporary basis for reasons such as school, business, or vacation. A nonimmigrant completes a two-copy arrival/departure document which contains a limited amount of personal identifying data as well as the alien's address while in the United States.

The arrival copy is collected at the port-of-entry by immigration officials and is sent to INS' Central Office to be entered into the automated system. If the alien's status changes while in the country (granted an extension of stay; changes from a nonimmigrant to an immigrant), documents to this effect are supposed to be sent by INS district offices to the Central Office to update the information in the system.

The departure copy is retained by the nonimmigrant. When the alien departs, the common carrier is required to collect the departure documents. 1/ The departure documents are sent to the Central Office where they are entered into the system and matched up with the corresponding arrival documents. If a departure is not reconciled with an arrival after a nonimmigrant's period of stay has expired, the alien's name will appear on an overstay report.

Alien departure documents are not entered into the system in a timely manner

One of the key requirements for an effective system is to insure that all alien departure documents are entered into the system in a timely manner. Indications are that this is not being done.

In 1979, INS conducted a test of apparent overstays using randomly selected names which the system indicated as apparent overstays. The purpose of this test was to tighten controls on nonimmigrants who stay longer than the time for which they were admitted and to identify groups who have a tendency to violate the terms of their entry. INS investigators tried to verify the status of 3,734 nonimmigrants who had apparently overstayed their visa. This effort required 8,700 staff hours and resulted in the location of only four deportable aliens. The results of this exercise are summarized on the next page.

1/ If the alien travels to Canada, his departure document is collected by Canadian immigration officials. If the alien travels to Mexico, his departure document is given to U.S. immigration officials.

	Number	Percent
Aliens located and found to be deportable	4	0.1
Aliens located and found to be in a legal status	42	1.1
Aliens verified as having departed country	1,257	33.7
Aliens who cannot be located or whose departure cannot be verified	2,181	58.4
Aliens who cannot be located because of illegible data	250	6.7
Totals	3,734	100.0

That 33.7 percent of the aliens had already left the country indicates a breakdown in departure controls. There is no way to determine whether the 2,431 aliens INS was unable to locate had become illegal aliens or had departed the country without INS' knowledge.

The nonimmigrant document control system is a paper intensive system, and INS is unable to process literally millions of arrival/departure documents in a timely manner. The volume of arrivals and departures the system had to process increased substantially during the past few years without a corresponding increase in INS' staff. Consequently, large backlogs developed which seriously lessened the system's value to management.

To alleviate the backlog problem, the Congress appropriated $600,000 in fiscal year 1980 to INS. An additional $1.25 million was provided to keep the present system current. The backlog was essentially eliminated when the keypunching contract expired in February 1980.

Since a new keypunching contract was not awarded until April 1980, the processing of arrival/departure documents backed up again. As of the end of April 1980, according to INS officials the backlog represented about 4.2 million documents--equivalent to about 11 weeks of arrival/departure records.

The backlog of status update documents (basically extensions of nonimmigrant stays) had not been dealt with as of April 1980. Since these documents could affect the eligibility of aliens applying for benefits, INS has made the decision to go ahead with the processing of the backlog, but it has not established a time frame for entering these documents into the system.

On September 30, 1980, INS awarded a contract to determine, among other matters, the information needed on nonimmigrants and whether the present system can satisfy those needs.

INS cannot account for foreign students residing in the United States

The inability of its automated system to monitor the status of nonimmigrants was pointedly demonstrated by INS' admission that the number, location, and status of foreign students in the United States was unknown. INS could not even locate many of the schools approved to admit foreign students. For example, of the 1,009 approved schools in the Los Angeles area, INS, in 1979, was unable to contact over 300 schools. In the Washington, D.C. area, about 200 of 500 approved postsecondary schools could not be contacted.

The scope of the information problem became apparent in early 1979 when the Attorney General asked INS to determine the number of foreign students attending school in the United States. INS' centralized microfilmed records system of nonimmigrant arrival documents was out of date and unable to provide the necessary information.

The task was turned over to the district offices which were asked to determine students' location and status. This process would have required manual collation of thousands of documents. INS finally resorted to a telephone survey of the schools to obtain the student information. This effort required detailing extra personnel and resources. For example, in the INS Los Angeles District Office, 65 people were shifted from their regular duties to perform the telephone survey. However, INS could not verify the information provided by the schools.

INS' efforts to comply with the President's November 1979 order to identify all out-of-status Iranian students further demonstrated the enormous resources required to

track approximately 20 percent of the total foreign student population. About 1,200 INS employees were assigned almost exclusively to interviewing and processing about 56,700 Iranian students. The total resources expended during this 2-month exercise amounted to approximately 18,000 staff days and $1.89 million.

After INS reconciled the records of those students who reported, 41,000 remaining documents had to be manually searched and sorted to determine the number of nonreporting Iranian students. All of these documents were sent into INS' Central Office where they were processed individually against three separate indexes. Thus, additional time and resources were required to obtain manual information that should be computer generated.

INS' problems accounting for foreign students and schools have been recognized for many years, however, corrective action has been limited. These problems have had low priority within INS, so that few resources have been devoted toward monitoring their status.

For example, the district offices were directed to review at least once every 2 years the records of all schools' compliance with reporting and eligibility requirements. Since inception of the program, only 250 schools have been surveyed, no evaluation reports have been issued and no schools have been penalized for noncompliance. The INS district offices in Washington, D.C., and Los Angeles, admitted that the program was not being conducted because of resource limitations and a low priority ranking. However, many officials believe that such a program would be beneficial to improving controls.

Recently INS has devoted much attention to the problem of accounting for foreign students. INS proposes to stop giving alien students status for the total time it takes to complete their schooling and requiring students to apply for annual authorizations to extend their stay. Students' admission for duration of status was initiated in January 1979. Since that time, INS has recognized this classification has only further contributed to the problems in recordkeeping and enforcement.

INS has also proposed to establish uniform criteria for reinstatement of out-of-status students. Among other factors, an applicant for reinstatement will have to show that

he is presently pursuing a full-time course of study, and that he has not been engaging in unauthorized employment. These proposed amendments were published on March 19, 1980, in the Federal Register.

No reporting system exists to account for most illegal aliens

The INS nonimmigrant control system, if working, would have information on less than half of the illegal aliens--those who have entered the country legally, then violated a condition of entry. Most of the illegal aliens are thought to have entered the country surreptitiously, without inspection, and, therefore, are not part of any control system.

No one knows for sure the size of the illegal population; as noted on page 2, estimates are around 3 to 6 million. Even less is known about the makeup of the population. Characteristics based upon the group of deportable aliens apprehended are questionable. As noted in chapter 1, on the basis of the characteristics of the deportable aliens located, most (92 percent) are Mexican, and most (92 percent) entered the country without inspection.

Other estimates lessen both percentages considerably. A December 1978 report by the House Committee on Population stated that the emerging consensus among some immigration experts was a 3 to 6 million illegal alien population in the country at any one time, approximately 60 percent of which were Mexicans. And, only 60 percent of the total population entered the country without inspection.

LOCATING AND APPREHENDING ILLEGAL ALIENS: A TOO FORMIDABLE TASK

INS does not have the means to effectively identify and apprehend the millions of illegal aliens residing in the country. There seems little likelihood of a change unless the drastic actions discussed in chapter 2 are taken.

About 300 investigators are assigned to area control operations--INS' principal program for locating deportable aliens in the interior of the country. In fiscal year 1979, the program accounted for about 150,000, 15 percent, of the total number of deportable aliens located.

Although millions of illegal aliens are presumed to be in the country, there is little information on their identity and location. INS, therefore, relies primarily on tips and complaints in selecting targets of investigations.

The usual investigative practice in area control operations is to confront persons believed to be aliens and question them about their citizenship and immigration status. If the person confronted admits facts which indicate that he is in the United States unlawfully, the INS investigator will take him into custody. Often a sworn statement is taken from the alien. The sworn statement, if one is taken, or the investigator's notes of interview, if one is not, usually contain enough factual information to establish the alien's deportability. The Government's case is later proved from the alien's statement or from documents in his possession.

The investigators' right to stop and interrogate a suspect and to search, with or without a warrant, for illegal aliens has been subject to close judicial scrutiny and limitation. Also, in light of complaints of harassment of citizens and permanent resident aliens who look like illegal aliens, local law enforcement officers no longer assist INS investigators by detaining, questioning, or arresting persons suspected solely of immigration offenses. Thus, about 300 INS investigators are responsible for policing most of the interior of the country.

Finally, apprehending and deporting illegal aliens is not one and the same thing. Aliens apprehended and believed to be here illegally may waive formal deportation hearings in favor of voluntary departure. However, those who choose to contest their deportability are entitled to hearings meeting standards of due process of law. Hearings take time and resources. Deportation hearings have increased from 53,000 in fiscal year 1978 to 60,000 in fiscal year 1979.

CONCLUSION

Once settled in the interior of the United States, illegal aliens are reasonably safe from deportation. INS simply does not have the means to identify, apprehend, and deport illegal aliens to the extent of putting an appreciable dent in their number.

APPENDIX I

U.S. Department of Justice

SEP 25 1980

Washington, D.C. 20530

Mr. William J. Anderson
Director
General Government Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Anderson:

This letter is in response to your request to the Attorney General for the comments of the Department of Justice (Department) on your draft report entitled "Prospects Dim for Enforcing Immigration Laws."

The report concludes that the Immigration and Naturalization Service (INS) is presently unable to effectively reduce the number of undocumented aliens in the United States because of the lack of resources and legal means. The Department agrees that without the implementation of measures such as those suggested in Chapter 2, little progress in solving the immigration problem is likely.

Chapter 2 discusses the possibility of creating a work authorization card, a concept which has been considered many times in the past. The creation of such a card would admittedly take years to implement, but the ultimate goal of significantly reducing the number of illegal workers in the United States would logically be achieved in direct proportion to the degree of implementation of such an identity document. Not addressed in the report is the impact of the correlation between the cost of implementing such a work authorization card progam and the eventual reduction of balance of payment factors when the undocumented alien population is reduced. The effect on balance of payment factors may offset implementation costs significantly.

We also agree that should any intensified removal program be instituted, resources would be affected proportionally. It is also important to point out that the requirement for a work authorization card would operate as a deterrent factor, but not significantly increase the number of aliens apprehended or removed.

While we agree with the report's conclusions, there are several inaccuracies which you may wish to consider in finalizing the report. Our comments are referenced to the pages to which they relate.

1. Page 1. The report states the Census Bureau estimated there may be about 5 million illegal aliens in the United States. This estimate is incorrect. Three Census Bureau staff members prepared a working paper for the Select Commission on Immigration and Refugee Policy. In the paper, the authors stated there are no reliable estimates of the number of illegal

aliens residing in the United States but estimated the illegal alien population to be approximately 5 million. Further, they stated that the estimate was not based on empirical research but represented their own speculation based on studies conducted by other researchers and thus did not represent an official estimate of the Census Bureau.

2. Page 2. The report describes the numerical limitations set forth in the Immigration and Nationality Act. There are no longer separate limitations for the hemispheres. In October 1978, legislation became effective changing the limitation to a worldwide ceiling of 290,000.

Also, statistics are delineated for entries by various nonimmigrant classes of admission for fiscal year 1978. The report states that approximately 8.3 million nonimmigrants entered the United States. The figure should read 9.3 million. Deleted from the total are 1.05 million returning resident aliens. INS considers these entrants as part of the nonimmigrant count. Therefore, they should be included in the nonimmigration figures.

3. Page 5. The overall INS budget estimate for fiscal year 1981 should total 10,716 permanent positions and $347.7 million, rather than 10,978 permanent positions and $336.5 million. Also, the cost for the investigation program should total $26.4 million rather than $26.6 million.

4. Page 12. References to INS' Alien Documentation, Identification and Telecommunications (ADIT) System are excerpts from a full report on the program. The $13 million figure referenced in the report was an estimate for the first 3 years of program activity. The $67 million figure referenced in the report represents an accumulation of both development and operating costs covering several years of ongoing operations. It is expected that costs relating to the established, ongoing ADIT operations will continue to recur each year. Renogotiation of the card production contract based on competitive bids and preparation of an independent government estimate are major efforts now underway to improve system efficiency and reduce card costs. The ADIT card production rate referenced in the report does not represent a problem. At present all Nonresident Border Crossing ID Cards issued in the United States, as well as all Resident Alien ID Cards, are produced by ADIT. The 7 year replacement schedule referenced in the report does remain somewhat of an open question. However, both the operational and technical aspects of that question are being addressed within INS. It is nearly certain that within 7 years, old version identification cards can be declared invalid for travel or work.

5. Page 22*. The report addresses the backlog of status update documents which had not been dealt with as of April 1980. Program changes in the Nonimmigrant Document Control (NIDC) System are being made and specifications for award of a contract will be forwarded to the General Services Administration by October 1, 1980.

6. Page 23. The report addresses INS' control problems over foreign students and states that corrective action has been limited. Effective July 1, 1980, all Forms I-94 (arrival and departure forms) are forwarded from the ports-of-entry directly to the Central Office for immediate input into the NIDC system. Also, the Central Office is immediately updating and entering into the system all data received on extensions relating to students.

*Page numbers have been changed to correspond to the final report.

The last paragraph contains an inaccurate summary of the proposed amendment to 8 C.F.R. 214.2(f)(8) regarding reinstatement of out-of-status students. The paragraph indicates that out-of-status students will not be permitted reinstatement. The proposed regulation is not worded in such absolute terms. It is suggested that the paragraph be revised to read:

> INS has also proposed to establish uniform criteria for reinstatement of out-of-status students. Among other factors, an applicant for reinstatement will have to show that he is presently pursuing a full-time course of study, and that he has not been engaging in unauthorized employment.

7. Page 24. The report implies that area control operations are the only operations which locate deportable aliens residing in the United States. Border Patrol farm and ranch checks are another method of locating illegal aliens at their places of employment. In addition, all Border Patrol Sectors are not located in areas contiguous to the border. Some sectors, such a Livermore, New Orleans, Miami, etc., have apprehension characteristics similar to those of area control operations.

We appreciate the opportunity to comment on the draft report. Should you desire any additional information, please feel free to contact me.

Sincerely,

Kevin D. Rooney
Assistant Attorney General
for Administration

(183520)